

R590. Insurance, Administration.

R590-252. Use of Senior-Specific Certifications and Professional Designations.

R590-252-1. Authority.

This rule is promulgated pursuant to:

(1) Subsection 31A-2-201(3)(a) wherein the commissioner may make rules to implement the provisions of Title 31A; and

(2) Subsection 31A-23a-402(8)(a) that authorizes the commissioner to define by rule unfair methods of competition and unfair or deceptive acts or practices in the business of insurance.

R590-252-2. Purpose.

The purpose of this rule is to set forth standards to protect consumers from misleading marketing practices with respect to the use of senior-specific certifications and professional designations in the solicitation, sale or purchase of, or advice made in connection with, an annuity, accident and health, or life insurance product.

R590-252-3. Scope.

This rule shall apply to any solicitation, sale or purchase of, or advice made in connection with, an annuity, accident and health, or life insurance product by an insurance producer or consultant.

R590-252-4. Findings.

The commissioner finds that the acts prohibited by this rule are unfair, misleading and deceptive.

R590-252-5. Prohibited Uses of Senior-Specific Certifications and Professional Designations.

(1)(a) An insurance producer or consultant may not use a senior-specific certification or professional designation that indicates or implies, in such a way as to mislead a purchaser or prospective purchaser, that the insurance producer or consultant has special certification or training in advising or servicing seniors in connection with the solicitation, sale or purchase of any annuity, accident and health, or life insurance product or in the provision of advice as to the value of or the advisability of purchasing or selling an annuity, accident and health, or life insurance product, either directly or indirectly through publications or writings, or by issuing or promulgating analyses or reports related to an annuity, accident and health, or life insurance product.

(b) The prohibited use of senior-specific certifications or professional designations includes, but is not limited to, the following:

(i) use of a certification or professional designation by an insurance producer or consultant who has not actually earned or is otherwise ineligible to use such certification or designation;

(ii) use of a nonexistent or self-conferred certification or professional designation;

(iii) use of a certification or professional designation that indicates or implies a level of occupational qualifications obtained through education, training, or experience that the insurance producer or consultant using the certification or designation does not have; and

(iv) use of a certification or professional designation that was obtained from a certifying or designating organization that:

(A) is primarily engaged in the business of instruction in sales or marketing;

(B) does not have reasonable standards or procedures for assuring the competency of its certificants or designees;

(C) does not have reasonable standards or procedures for monitoring and disciplining its certificants or designees for improper or unethical conduct; or

(D) does not have reasonable continuing education requirements for its certificants or designees in order to maintain the certificate or designation.

(2) There is a rebuttable presumption that a certifying or designating organization is not disqualified solely for purposes of subsection (1)(b)(iv) when the certification or designation issued from the organization does not primarily apply to sales or marketing and when the organization or the certification or designation in question has been accredited by:

(a) the American National Standards Institute (ANSI);

(b) the National Commission for Certifying Agencies; or

(c) any organization that is on the U.S. Department of Education's list entitled "Accrediting Agencies Recognized for Title IV Purposes."

(3) In determining whether a combination of words or an acronym standing for a combination of words constitutes a certification or professional designation indicating or implying that a person has special certification or training in advising or servicing seniors, factors to be considered shall include:

(a) use of one or more words such as "senior," "retirement," "elder," or like words combined with one or more words such as "certified," "registered," "chartered," "advisor," "specialist," "consultant," "planner," or like words, in the name of the certification or professional designation; and

(b) the manner in which those words are combined.

(4)(a) For purposes of this rule, a job title within an organization that is licensed or registered by a state or federal financial services regulatory agency is not a certification or professional designation, unless it is used in a manner that would confuse or mislead a reasonable consumer, when the job title:

(i) indicates seniority or standing within the organization; or

(ii) specifies an individual's area of specialization within the organization.

(b) For purposes of this subsection, financial services regulatory agency includes, but is not limited to, an agency that regulates insurers, insurance producers, insurance consultants, broker-dealers, investment advisers, or investment companies as defined under the Investment Company Act of 1940.

R590-252-6. Penalties.

A person found to be in violation of this rule shall be subject to penalties as provided under Section 31A-2-308.

R590-252-7. Enforcement Date.

The commissioner will begin enforcing this rule 45 days from the rule's effective date.

R590-252-8. Severability.

If any provision of this rule or its application to any person or circumstances is for any reason held to be invalid, the remainder of the rule and the application of the provision to other persons or circumstances shall not be affected thereby.

KEY: senior-specific insurance designations
31A-2-201, 31A-23a-402